THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.18317 OF 1998

DATED: 13-06-2007

Between:

G.S.R.C. Murthy

.. Petitioner

and

The Managing Director, A.P. Scheduled Castes Cooperative Finance Corporation Limited, Hyderabad and others.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.18317 OF 1998

ORDER:

This writ petition is filed seeking a mandamus declaring the action of the respondents 1 and 2 in promoting the respondents 3 to 5, who are unqualified for promotion as Senior Assistants as per Clause (1) of Regulation 17 read with Annexure of Staff Recruitment and Service Regulations of A.P. Scheduled Castes Cooperative Finance Corporation Limited, 1996, as arbitrary and illegal; and consequently to direct the respondents 1 and 2 to promote the petitioner to the post of Senior Assistant with effect from 31.07.1996, the date on which the respondents 3 to 5 were promoted.

It appears, the petitioners and unofficial respondents 3 to 5 were working as Typist/L.D.Steno/Junior Assistant in the A.P. Scheduled Castes Cooperative Finance Corporation Limited (for short 'Corporation'). When eight vacancies arose in the post of Senior Assistant in the Corporation, the 2nd respondent conducted a written test on 16.07.1996 to the Typists, L.D. Stenos and Junior Assistants for promotion to the said eight posts of Senior Assistants. However, the said test was cancelled on the ground that none of the candidates appeared for the test secured 50% marks as required. Thereafter, another written test was conducted on 30.07.1996 and, on the basis of the marks secured in the said test, respondents 3 to 5 were promoted to the posts of Senior Assistants and the petitioner was not promoted. According to the petitioner, as per Regulation 17 (1) of the Staff Recruitment and Service Regulations of A.P. Scheduled Castes Cooperative Finance Corporation Limited, 1996 (for short 'Regulations'), for becoming eligible for promotion to the post of Senior Assistant, one should be a graduate having experience of five years in the feeder post and also must have passed

Accounts Test for Subordinate Officers Part-I. The petitioner possesses all the above qualifications and hence eligible for promotion. But, the respondents 3 to 5 are not at all eligible for promotion, since they all have not passed Accounts Test and the 3rd and 5th respondents have not put in five years of service, whereas the 4th respondent is not a graduate. Therefore, the promotion of the respondents 3 to 5 is arbitrary, illegal and contrary to the Rules.

A detailed counter-affidavit has been filed by the 3rd and 4th respondents denying the allegations made by the petitioner. It is asserted that, in the test conducted on 30.07.1996, the petitioner stood at 10th place in the merit list and since there were only eight vacancies, the first eight persons in the merit list were promoted. Further, it is asserted that the Service Regulations of 1996 are only Draft Regulations, and they have not been approved and adopted by the Corporation and also did not come into force till date. Thus, the petitioner has no right to claim that their service conditions are governed by the said Regulations. It is further asserted that when those Draft Regulations were sent to the Government for approval, the Government, Social Welfare Department, returned the same, vide letter dated 01.01.1998, to re-examine the same. The said exercise has not been completed so far. It is further asserted that the minimum service required for becoming eligible for promotion to the post of Senior Assistant is only three years and not five years, as contended by the petitioner. Further, the unofficial respondents 3 to 5 have also passed Account Test Part-I within the stipulated period.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side.

At the outset, I am of the opinion that there is no basis for the petitioner to say that he is more qualified than that of the respondents 3 to 5, and the respondents 3 to 5 are not all eligible for being promoted to the post of Senior Assistant. The Draft Regulations of 1996 were neither approved nor adopted by the Corporation till date. Therefore, it cannot be said that the service conditions of the petitioner as well as respondents 3 to 5 are governed by the said Draft Regulations. Further, the petitioner secured 10th rank in the written test conducted on 30.07.1996 and, accordingly, stood at 10th place in the merit list and, therefore, it cannot be said that the promotion of the respondents 3 to 5 is bad in law. Viewed from any angle, the claim of the petitioner is untenable. The writ petition is devoid of merits and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

C.V. RAMULU, J

13th June, 2007.
IBL